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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,616	04/26/2001	John B. Rosen	RPD 320M	7674

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EXAMINER	
ANDERSON, GERALD A	

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 11/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/843,616	JOHN B. ROSEN	
	Examiner	Art Unit	
	JERRY A ANDERSON	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 23-50 is/are pending in the application.

4a) Of the above claim(s) 23,37-41,43,45 and 47 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 24-36,42,44,46 and 48-50 is/are rejected.

7)☒ Claim(s) 36 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Figure s 1-4 in Paper No. 12 is acknowledged. Applicant disagrees that the claims drawn to the elected Figures have not been identified but fails to support this allegation. The applicant states that all the claims; claims 23-50, presently in the application are drawn to the elected embodiment. The claims to be examined are limited to those claims defining elements of the invention clearly shown by the elected Figures 1-4. The Examiner has reviewed the application and has withdrawn claims 23, 37-41, 43, 45 and 47 from consideration because the elected Figures do not disclose: a screen hinged adjacent a distal portion, a break-away position, a viewing surface facing the cavity, a stop means to automatically pivot the screen upon lock mechanism release (no circuitry or electrical system is shown). Because no generic claim has been found patentable the restriction is made FINAL.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 23-50 are rejected under the judicially created doctrine of double patenting over claims 2-28 of U. S. Patent No. 5946055 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: an overhead automobile display unit.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-37, 42, 44, 46, 48-50, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Terms which make the claims indefinite include: "on" in claims 24 line 4 and 29, line 2; change this to - - to - -. The term on means to "position upon an above the surface of". Herein the device is embedded in or penetrates the surface of the supporting structure. Claim 49 is misdescriptive because it depends on claim 48 defining "a catch on the housing".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24, 26-29, 32-35 and 42, as presented, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kokubu. Kokubu as cited showing a housing 1 mounted to a vehicle ceiling, see Figure 3, the housing having a control module 12 and a pivotally mounted screen 3 stowed in a housing recess.

Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 25, 30, 31, 44, 46, 48-50, as presented, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokubu as applied to claims above, and further in view of Kani, Schranzer and Peace et al. Kokubu fails to show a lock securing

a rotatable screen in a stowed position, a screen rotatable about two axis, facing the vehicle compartment when stowed or a housing embedded in the vehicle ceiling. Pease is cited showing a rotatable screen 12 with a transverse edge having a detent 12c stowed in a housing 18 a catch 81 for the purpose of engaging the detent and securing the screen in the stowed position. Kani is cited showing a rotatable screen mounted to face a vehicle compartment, see Figure 10, and mounted with a bracket for the purpose of rotating the screen about plural axis, see Figures 5 and 8. Schranzer is cited showing a housing with a flange17 mounted to a vehicle so that the housing and screen are flush with the ceiling of the vehicle in the stowed position to be out of the way of passengers in the stowed position. Since the references are from the same field of endeavor the purpose of Pease, Kani and Schranzer would have been obvious in the pertinent art of Kokubu at the time of the invention it would have been obvious for one having an ordinary skill in the art to have modified Kokubu with a rotatable screen having a transverse edge and a detent stowed in a housing with a catch for the purpose of engaging the detent and securing the screen in the stowed position in view of Pease, a rotatable screen mounted to face a vehicle compartment and to mounted with a bracket to rotate the screen about plural axis in view of Kani and with a housing with a flange mounted to a vehicle so that the housing and screen are flush with the ceiling of the vehicle in the stowed position to be out of the way of passengers in the stowed position in view of Schranzer. Official Notice is taken of the detent extending into the screen, claim 50. Generally the shape of an element is considered an obvious matter of design choice. Here shape of the detent is considered to be an obvious modification of the

shape of the panel for the purpose of engaging a catch is considered within the ability of one having an ordinary skill in the art

It is noted that Schranzer discloses a breakaway hinge used to mount the screen.

Allowable Subject Matter

Claim 36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry

Anderson whose telephone number is 703 038 2202. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703 308 24668. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 3597 for regular communications and 703 306 4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 2197.

Jaa
November 23, 2003

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600